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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,685	01/11/2001	Joseph Oreste Carnali	C6578(C)	9593

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UNILEVER  
PATENT DEPARTMENT  
45 RIVER ROAD  
EDGEWATER, NJ 07020

EXAMINER

MRUK, BRIAN P

ART UNIT PAPER NUMBER

1751

DATE MAILED: 05/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

A

## Office Action Summary

Application No.

09/758,685

Applicant(s)

CARNALI ET AL.

Examiner

Brian P Mruk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Instant claims 1, 2 and 12 recite "releasing at least an effective amount to prevent scaling of the polymer". This phrase renders the claims vague and indefinite, since it is unclear what component is being released. Is the composition as a whole, the anti-scaling polymer or the vehicle component being released? If applicant is attempting to state that the anti-scaling component is being released, claims 1, 2 and 12 should be amended to recite --releasing at least an effective amount **of the polymer** to prevent scaling--. Appropriate correction and/or clarification is required.
4. Claim 8 recites the limitation "The composition according to claim 7 wherein the aliphatic acids" in line 1. There is insufficient antecedent basis for this limitation in the claim.

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The examiner notes that claim 7 does not recite the phrase "aliphatic acids". Claim 8 should be amended to delete the term "aliphatic", or claim 7 should be amended to add the term --aliphatic--. Appropriate correction and/or clarification is required.

5. Claims 3-11 are rejected under 35 U.S.C. 112, second paragraph, for being dependent upon a claim with the above addressed 112 problem.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

7. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Zhou et al, EP 851,022 A2.

Zhou et al, EP 851,022 A2, discloses rinse aid composition containing scale inhibiting polymers (abstract). It is further taught by Zhou et al that the scale inhibiting copolymer contains 50-99% by weight of an olefinically unsaturated carboxylic monomer and 1-50% by weight of at

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least one monomer selected from the group consisting of copolymerizable sulfonated monomers, copolymerizable nonionic monomers, and mixtures thereof, wherein the resulting polymer has a molecular weight between 1,500 to 250,000 (page 2, lines 1-15). It is further taught by Zhou et al that a preferred scale inhibiting copolymer includes a tetrapolymer of 4-sulfophenol methallyl ether, sodium methallyl sulfonate, acrylic acid and methyl methacrylate (page 3, lines 1-25), and that the composition is used in the rinse cycles of a dishwashing machine (page 10, lines 5-18), per the requirements of instant claims 1-12. Zhou et al discloses that the composition further contains 1-40% by weight of a surfactant system (page 3, lines 37-45), 0-60% by weight of a builder system (page 7, lines 45-51), 0.005-20% by weight of sequestrants (page 8, lines 45-50), 0.1-40% by weight of a lime soap dispersant (page 9, lines 9-14), 1-30% by weight of a solvent (page 9, lines 31-40), and 0.5-20% by weight of hydrotropes (page 10, lines 1-4). Specifically, note Examples 3 and 4, which discloses rinse aid compositions used in a dishwashing machine rinse cycle. Therefore, instant claims 1-12 are anticipated by Zhou et al, EP 851,022 A2.

8. Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Binstock et al, U.S. Patent No. 5,958,855.

Binstock et al, U.S. Patent No. 5,958,855, discloses a powdered automatic dishwashing tablet comprising 20-40% by weight of an alkali metal phosphate builder, 10-24% by weight of a dialkali metal disilicate, 16-26% by weight of an alkali metal silicate, 0.1-6% by weight of a nonionic surfactant, 0.5-5% by weight of a polymer containing sulfonic acid groups, 0.1-1% by

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weight of a hydrotrope, and 0.1-1% by weight of a pigment (col. 2, lines 19-40). It is further taught by Binstock et al that a preferred polymer containing sulfonic acid groups is Alcosperse 240, which has a molecular weight of 8,000 (col. 6, lines 24-27), per the requirements of instant claims 1-12. Specifically, note Examples 1-3, which disclose a detergent tablet for use in a dishwashing machine, which comprises Alcosperse 240-D and adjunct ingredients. Therefore, instant claims 1-12 are anticipated by Binstock et al, U.S. Patent No. 5,958,855.

### ***Double Patenting***

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Claims 1-12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,210,600. Although the conflicting claims are not identical, they are not patentably distinct from each other because both

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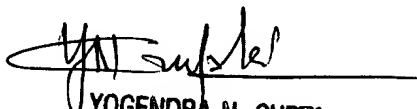
the claims of the instant invention and the claims of U.S. Patent No. 6,210,600 require a composition comprising a scale inhibiting copolymer containing 50-99% by weight of an olefinically unsaturated carboxylic monomer and 1-50% by weight of at least one monomer selected from the group consisting of copolymerizable sulfonated monomers, copolymerizable nonionic monomers, and mixtures thereof, wherein the resulting polymer has a molecular weight between 1,500 to 250,000, and adjunct ingredients for use in the rinse cycle of a dishwashing machine.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (703) 305-0728. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

BPM  
Brian Mruk  
May 15, 2002

  
YOGENDRA N. GUPTA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700